

AMENDED IN ASSEMBLY APRIL 13, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2301

Introduced by Assembly Member Chu

February 18, 2016

An act to ~~amend Section 1569.269 of the Health and Safety Code,~~
add and repeal Section 15656.5 of the Welfare and Institutions Code,
relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 2301, as amended, Chu. Residential care facilities for the elderly:
~~resident rights: elder abuse.~~

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure of residential care facilities for the elderly by the State Department of Social Services. Existing law establishes rights for residents of residential care facilities for the elderly, including the right to contact the department or the long-term care ombudsman, or both, regarding grievances. ~~Existing law requires a licensee to post the telephone numbers and addresses of the local offices of the department and the ombudsman program conspicuously in the facility foyer, lobby, residents' activity room, or other location easily accessible to residents. Violation of these provisions is a crime. Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes various procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse.~~

~~This bill would also require the licensee to post the telephone number and address of the local law enforcement agency in the same manner.~~

~~By creating a new crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

This bill would require the California Health and Human Services Agency, on or before January 1, 2020, to file a report to the Legislature regarding the manner in which each county in the state invests in and conducts services that train and equip law enforcement officers to identify and investigate instances of elder abuse in long-term care and assisted living facilities within their jurisdiction, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 15656.5 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 15656.5. (a) On or before January 1, 2020, the California
- 4 Health and Human Services Agency shall file a report to the
- 5 Legislature regarding the manner in which each county in the state
- 6 invests in and conducts services that train and equip law
- 7 enforcement officers to identify and investigate instances of elder
- 8 abuse in long-term care and assisted living facilities within their
- 9 jurisdictions.
- 10 (b) The report filed pursuant to subdivision (a) shall include,
- 11 but not be limited to, the following information for each county:
- 12 (1) The size and scope of the county's long-term care
- 13 ombudsman program.
- 14 (2) Whether or not the county sheriff's department maintains
- 15 an elder abuse task force or a resource officer trained and
- 16 equipped to investigate elder abuse cases or coordinates with the
- 17 county long-term care ombudsman on elder abuse investigations
- 18 and the way in which these programs are funded.
- 19 (3) How proactive the county's programs are at engaging with
- 20 long-term care facilities and conducting services, including, but
- 21 not limited to, routine check-ins with facility managers and
- 22 residents.

1 (4) Whether or not the county's elder abuse task force or
2 designated resource officer, if any, has contact information
3 available to long-term care facilities and their residents.

4 (c) (1) A report to be submitted pursuant to subdivision (a)
5 shall be submitted in compliance with Section 9795 of the
6 Government Code.

7 (2) Pursuant to Section 9795 of the Government Code, this
8 section is repealed on January 1, 2024.

9 **SECTION 1.** ~~Section 1569.269 of the Health and Safety Code~~
10 ~~is amended to read:~~

11 ~~1569.269. (a) Residents of residential care facilities for the~~
12 ~~elderly shall have all of the following rights:~~

13 ~~(1) To be accorded dignity in their personal relationships with~~
14 ~~staff, residents, and other persons:~~

15 ~~(2) To be granted a reasonable level of personal privacy in~~
16 ~~accommodations, medical treatment, personal care and assistance,~~
17 ~~visits, communications, telephone conversations, use of the~~
18 ~~Internet, and meetings of resident and family groups:~~

19 ~~(3) To confidential treatment of their records and personal~~
20 ~~information and to approve their release, except as authorized by~~
21 ~~law:~~

22 ~~(4) To be encouraged and assisted in exercising their rights as~~
23 ~~citizens and as residents of the facility. Residents shall be free~~
24 ~~from interference, coercion, discrimination, and retaliation in~~
25 ~~exercising their rights:~~

26 ~~(5) To be accorded safe, healthful, and comfortable~~
27 ~~accommodations, furnishings, and equipment:~~

28 ~~(6) To care, supervision, and services that meet their individual~~
29 ~~needs and are delivered by staff that are sufficient in numbers,~~
30 ~~qualifications, and competency to meet their needs:~~

31 ~~(7) To be served food of the quality and in the quantity necessary~~
32 ~~to meet their nutritional needs:~~

33 ~~(8) To make choices concerning their daily life in the facility:~~

34 ~~(9) To fully participate in planning their care, including the right~~
35 ~~to attend and participate in meetings or communications regarding~~
36 ~~the care and services to be provided in accordance with Section~~
37 ~~1569.80, and to involve persons of their choice in the planning~~
38 ~~process. The licensee shall provide necessary information and~~
39 ~~support to ensure that residents direct the process to the maximum~~

1 extent possible, and are enabled to make informed decisions and
2 choices:

3 ~~(10) To be free from neglect, financial exploitation, involuntary~~
4 ~~seclusion, punishment, humiliation, intimidation, and verbal,~~
5 ~~mental, physical, or sexual abuse.~~

6 ~~(11) To present grievances and recommend changes in policies,~~
7 ~~procedures, and services to the staff of the facility, the facility's~~
8 ~~management and governing authority, and to any other person~~
9 ~~without restraint, coercion, discrimination, reprisal, or other~~
10 ~~retaliatory actions. The licensee shall take prompt actions to~~
11 ~~respond to residents' grievances.~~

12 ~~(12) To contact the State Department of Social Services, the~~
13 ~~long-term care ombudsman, or both, regarding grievances against~~
14 ~~the licensee. The licensee shall post the telephone numbers and~~
15 ~~addresses for the local offices of the State Department of Social~~
16 ~~Services, the ombudsman program, in accordance with Section~~
17 ~~9718 of the Welfare and Institutions Code, and the local law~~
18 ~~enforcement agency conspicuously in the facility foyer, lobby,~~
19 ~~residents' activity room, or other location easily accessible to~~
20 ~~residents.~~

21 ~~(13) To be fully informed, as evidenced by the resident's written~~
22 ~~acknowledgment, prior to or at the time of admission, of all rules~~
23 ~~governing residents' conduct and responsibilities. In accordance~~
24 ~~with Section 1569.885, all rules established by a licensee shall be~~
25 ~~reasonable and shall not violate rights set forth in this chapter or~~
26 ~~in other applicable laws or regulations.~~

27 ~~(14) To receive in the admission agreement a comprehensive~~
28 ~~description of the method for evaluating residents' service needs~~
29 ~~and the fee schedule for the items and services provided, and to~~
30 ~~receive written notice of any rate increases pursuant to Sections~~
31 ~~1569.655 and 1569.884.~~

32 ~~(15) To be informed, in writing, at or before the time of~~
33 ~~admission of any resident retention limitations set by the state or~~
34 ~~licensee, including limitations or restrictions on the licensee's~~
35 ~~ability to meet residents' needs.~~

36 ~~(16) To reasonable accommodation of individual needs and~~
37 ~~preferences in all aspects of life in the facility, except when the~~
38 ~~health or safety of the individual or other residents would be~~
39 ~~endangered.~~

1 ~~(17) To reasonable accommodation of resident preferences~~
2 ~~concerning room and roommate choices.~~

3 ~~(18) To written notice of room changes at least 30 days in~~
4 ~~advance unless the request for a change is agreed to by the resident,~~
5 ~~required to fill a vacant bed, or necessary due to an emergency.~~

6 ~~(19) To share a room with the resident's spouse, domestic~~
7 ~~partner, or a person of resident's choice when both spouses,~~
8 ~~partners, or residents live in the same facility and consent to the~~
9 ~~arrangement.~~

10 ~~(20) To select their own physicians, pharmacies, privately paid~~
11 ~~personal assistants, hospice agency, and health care providers, in~~
12 ~~a manner that is consistent with the resident's contract of admission~~
13 ~~or other rules of the facility, and in accordance with this act.~~

14 ~~(21) To have prompt access to review all of their records and~~
15 ~~to purchase photocopies. Photocopied records shall be promptly~~
16 ~~provided, not to exceed two business days, at a cost not to exceed~~
17 ~~the community standard for photocopies.~~

18 ~~(22) To be protected from involuntary transfers, discharges, and~~
19 ~~evictions in violation of state laws and regulations. Facilities shall~~
20 ~~not involuntarily transfer or evict residents for grounds other than~~
21 ~~those specifically enumerated under state law or regulations, and~~
22 ~~shall comply with enumerated eviction and relocation protections~~
23 ~~for residents. For purposes of this paragraph, "involuntary" means~~
24 ~~a transfer, discharge, or eviction that is initiated by the licensee,~~
25 ~~not by the resident.~~

26 ~~(23) To move from a facility.~~

27 ~~(24) To consent to have relatives and other individuals of the~~
28 ~~resident's choosing visit during reasonable hours, privately and~~
29 ~~without prior notice.~~

30 ~~(25) To receive written information on the right to establish an~~
31 ~~advanced health care directive and, pursuant to Section 1569.156,~~
32 ~~the licensee's written policies on honoring those directives.~~

33 ~~(26) To be encouraged to maintain and develop their fullest~~
34 ~~potential for independent living through participation in activities~~
35 ~~that are designed and implemented for this purpose, in accordance~~
36 ~~with Section 87219 of Title 22 of the California Code of~~
37 ~~Regulations.~~

38 ~~(27) To organize and participate in a resident council that is~~
39 ~~established pursuant to Section 1569.157.~~

1 ~~(28) To protection of their property from theft or loss in~~
2 ~~accordance with Sections 1569.152, 1569.153, and 1569.154.~~

3 ~~(29) To manage their financial affairs. A licensee shall not~~
4 ~~require residents to deposit their personal funds with the licensee.~~
5 ~~Except as provided in approved continuing care agreements, a~~
6 ~~licensee, or a spouse, domestic partner, relative, or employee of a~~
7 ~~licensee, shall not do any of the following:~~

8 ~~(A) Accept appointment as a guardian or conservator of the~~
9 ~~person or estate of a resident.~~

10 ~~(B) Become or act as a representative payee for any payments~~
11 ~~made to a resident, without the written and documented consent~~
12 ~~of the resident or the resident's representative.~~

13 ~~(C) Serve as an agent for a resident under a general or special~~
14 ~~power of attorney.~~

15 ~~(D) Become or act as a joint tenant on an account with a resident.~~

16 ~~(E) Enter into a loan or promissory agreement or otherwise~~
17 ~~borrow money from a resident without a notarized written~~
18 ~~agreement outlining the terms of the repayment being given to the~~
19 ~~resident.~~

20 ~~(30) To keep, have access to, and use their own personal~~
21 ~~possessions, including toilet articles, and to keep and be allowed~~
22 ~~to spend their own money, unless limited by statute or regulation.~~

23 ~~(b) A licensed residential care facility for the elderly shall not~~
24 ~~discriminate against a person seeking admission or a resident based~~
25 ~~on sex, race, color, religion, national origin, marital status,~~
26 ~~registered domestic partner status, ancestry, actual or perceived~~
27 ~~sexual orientation, or actual or perceived gender identity.~~

28 ~~(c) No provision of a contract of admission, including all~~
29 ~~documents that a resident or his or her representative is required~~
30 ~~to sign as part of the contract for, or as a condition of, admission~~
31 ~~to a residential care facility for the elderly, shall require that a~~
32 ~~resident waive benefits or rights to which he or she is entitled under~~
33 ~~this chapter or provided by federal or other state law or regulation.~~

34 ~~(d) Residents' family members, friends, and representatives~~
35 ~~have the right to organize and participate in a family council that~~
36 ~~is established pursuant to Section 1569.158.~~

37 ~~(e) The rights specified in this section shall be in addition to~~
38 ~~any other rights provided by law.~~

39 ~~(f) The provisions of this section are severable. If any provision~~
40 ~~of this section or its application is held invalid, that invalidity shall~~

1 not affect other provisions or applications that can be given effect
2 without the invalid provision or application.

3 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
4 ~~Section 6 of Article XIII B of the California Constitution because~~
5 ~~the only costs that may be incurred by a local agency or school~~
6 ~~district will be incurred because this act creates a new crime or~~
7 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
8 ~~for a crime or infraction, within the meaning of Section 17556 of~~
9 ~~the Government Code, or changes the definition of a crime within~~
10 ~~the meaning of Section 6 of Article XIII B of the California~~
11 ~~Constitution.~~